THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :2090 of 2007

DATED:06-02-2007

Smt.Manjulatha Kumari & another.

.....
PETITIONERS

AND

The Vijayawada Municipal Corporation,
Rep., by its Commissioner,
Vijayawada,
Krishna District.

.....RESPONDENT

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ORDER:

Heard the learned counsel for the petitioners as well as the learned counsel appearing for the respondent.

2. Petitioners seek a writ of mandamus declaring the action of the respondent in demolishing the buildings bearing D.Nos.74-19-1/4, 74-18-7, 74-18-1 and 74-19-1/16 in S.No.197/7 of Patamata, Vijayawada, under the guise of widening the road without any notice and due process of law, as illegal and arbitrary.

3. It is the case of the petitioners that the 2nd petitioner is the owner of three small bits consisting of 12.5 X 27.96 sq.yards of each bit and also two bits consisting of 11X 27.96 sq.yards in Sy.No.197/7 of Patamata, Vijayawada, and the 1st petitioner is the owner of 11X 27.96 sq.yards and the said bits of land are situated by the side of the existing 50 ft. wide road and after purchasing the said property the 2nd petitioner constructed a building bearing D.No.74-18-7 in the said three bits and two small buildings bearing D.Nos.74-18-1 and 74-19-1/16 in other two bits of land and the 1st petitioner constructed a building bearing D.No.74-19-1/4 and they have applied for regularization of the said buildings. It is stated that a part of the said property was required for the purpose of road widening

and accordingly notice, dated 13-12-2006, vide Rc.No.G2/5639/2006 was issued by the respondent to discuss the relevant issues relating to the proposed road widening programme so as to enable the respondent to commence the road widening programme and to complete it at an early date. It is stated that the petitioners are not inclined to settle the issues by private negotiations.

4. I am of the opinion that the road widening programme is in the public interest and therefore there can be a compulsory acquisition of the land by following Sections 146 and 147 of the Municipal Corporations Act, even if the owners of the petitioners come to settlement by private negotiations. Therefore, without initiating legal process of law the respondent cannot take away any portion of the buildings of the petitioners.

5. Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing the respondent not to deprive any portion of the property for the purpose of widening of the road without following due process of law under Sections 146 or 147 of the Hyderabad Municipal Corporations Act. Insofar as the construction is concerned, the issue whether the petitioners have constructed the buildings in question after following due process of law or not is left for appropriate action of the respondent. No order as to costs.

V.ESWARAIAH,J

06th February, 2007.
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